



December 13, 2011

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Chief George Turner
Atlanta Police Department
226 Peachtree Street, S.W.
Atlanta, Georgia 30303

RE: Complaint of Jeremy Phillips, Case #11-62

Dear Chief Turner:

The Atlanta Citizen Review Board ("ACRB") completed its investigation and adjudication of the complaint that was filed by Jeremy Phillips alleging that he was falsely imprisoned and subjected to abusive language by Officer Raymond Layton. The complaint was investigated by Investigator Marc Addington.

MAYOR OF ATLANTA

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Mr. Phillips alleged that on August 08, 2011 in the area of Luckie Street near the Georgia Aquarium, Officer Layton used abusive language and falsely imprisoned him and his family during an interaction in which Officer Layton advised the complainant to "move dumbass" when the complainant paused at a parking lot exit to activate his GPS. The complainant admitted to making an obscene gesture with his hand in response to Layton's comments. Mr. Phillips then claimed that Officer Layton drove up the opposite lane of traffic in his personal vehicle pursuing Phillips' vehicle. Mr. Phillips claimed that Officer Layton parked his car and approached his vehicle while it was stopped and ordered him to provide his license and made the comment "do you always flip off a police officer." Phillips responded by asking the officer why he felt the need to curse at them to which Layton replied "I was talking to someone else." Mr. Phillips indicated that there was no other person within the vicinity of Layton's vehicle. According to Phillips, Layton then appeared to be checking his license or tag and after which, Layton gave his license back and allowed him to leave with a warning.

Mr. Phillips' wife, Stormy Phillips, was present during the incident and was subsequently interviewed as to what she observed. Mrs. Phillips interview produced a similar fact pattern as that of her husband. Mrs. Phillips claimed that Officer Layton said "move dumbass" and that her husband did make an obscene gesture with his hand. Mrs. Phillips also claimed that Layton pursued them in his personal vehicle and eventually, detained them while he checked her husband's license or vehicle tag. Additionally, Mrs. Phillips indicated that she attempted to explain to Officer Layton that the incident was a misunderstanding. In response, Officer Layton told Mrs. Phillips that if her husband had an issue, he could step out of the vehicle and they would handle it.

Continue...

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Officer Layton was interviewed regarding the complaint of Mr. Phillips. According to Officer Layton, he was working an extra job when he made eye contact with the complainant and observed Mr. Phillips make an obscene hand gesture. Officer Layton claimed the vehicle was involved in a road rage incident and out of concern he made the decision to pursue the car in his personal vehicle. Officer Layton claimed that he did not consider his contact with the Phillips' vehicle as a traffic stop because the vehicle was already stopped due to a red light near the intersection. Officer Layton admitted to running the tag of the vehicle after which he allowed the complainant to leave with a warning. During the interview, Officer Layton never indicated he observed another vehicle that was involved in the road rage incident that initially generated his reason for stopping and confronting the complainant. Additionally, Officer Layton denied using any profanity but later recanted and claimed that he may have used profanity towards someone else who was in the area.

The Board considered the evidence and voted unanimously to recommend that a finding of Sustained be applied to the allegation of False Imprisonment and Abusive Language. Officer Layton claimed that he pursued the complainant's vehicle out of concern that a road rage incident was occurring. Officer Layton's inability to mention or describe a second vehicle that was involved in this incident calls into question the validity of the stop and detention due to the lack of probable cause that a traffic offense or crime had occurred. The profane hand gesture made by the complainant is protected under the First Amendment and this alone should not be reason for the stop and detention of Mr. & Mrs. Phillips. Moreover, Officer Layton's initial denial of using any profanity and then later recanting this claim and admitting that he may have used profanity toward someone else in the area calls into question the officer's credibility. The question of Officer Layton's credibility coupled with the version of events provided by the complainant and his wife support the allegation of abusive language and false imprisonment. The Board recommends a written warning for violation of APD work rule 4.2.2 Courtesy and a written reprimand for APD work rule 4.1.1 Appropriate Action required.

Please let me know if you have any questions or concerns or if you would like to have a copy of the full investigation. The ordinance requires that the Chief respond in writing regarding which recommendations are accepted, rejected, or will be implemented with modifications within thirty (30) days of the submission of a recommendation for action by the Board to the Chief. See Sec. 2-2211(O) of Ordinance 07-0-0141

Sincerely,



Joy Morrissey,
Board Chair

cc: Mayor Kasim Reed
Council President Caesar Mitchell
Members of Atlanta City Council
ACRB Members
ACRB Investigator Marc Addington